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October 16, 1992

ORIGINAL
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Donna R. Searcy, Secretary
Federal Communications Commission
Washington, D.C. 20554

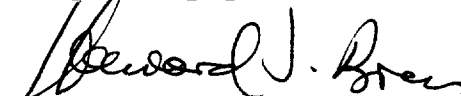
Re: MM Docket No. 92-155
FM Table of Allotments

Dear Ms. Searcy:

Enclosed herewith, on behalf of Sunrise Broadcasting of Nebraska, Inc., licensee of Station KBWH(FM), Blair, Nebraska, are an original and four (4) copies of its "COUNTERPROPOSAL REPLY COMMENTS OF SUNRISE BROADCASTING OF NEBRASKA, INC." in the above-referenced proceeding.

Please direct all inquiries and communications concerning this matter to the undersigned.

Very truly yours,


Howard J. Braun

Enc.

cc: As on Certificate of Service (all w/enc.)

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OCT 16 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 92-155
Table of Allotments,)
FM Broadcast Stations) RM-8020
(Blair, Nebraska; Storm Lake,)
Perry, Sac City, Alta, Denison,) RM-8095
Ames, and Lake City, Iowa) RM-8096

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COUNTERPROPOSAL REPLY COMMENTS OF
SUNRISE BROADCASTING OF NEBRASKA, INC.

SUNRISE BROADCASTING OF NEBRASKA, INC. ("Sunrise"), licensee of Station KBWH(FM), Blair, Nebraska, by its attorneys, pursuant to §1.415(d) of the Commission's Rules, hereby submits its Counterproposal Reply Comments in response to the September 15, 1992 "Counter-Proposal and Comments" of Marjorie K. Mahn and Theodore H. Mahn (the "Mahn Partnership") (RM-8095) and the September 15, 1992 "Counterproposal and Request for Order to Show Cause" of Ames Broadcasting Company ("Ames") (RM-8096) in this proceeding. In support hereof, Sunrise shows the following:

1. In its September 30, 1992 Reply Comments, Sunrise demonstrated that none of the comments and counterproposals which responded to the Notice of Proposed Rule Making and Order to Show Cause ("NPRM"), 7 FCC Rcd 4590 (MMB 1992), in this proceeding is inconsistent with Sunrise's proposed upgrade to Channel 268C3 at Blair, Nebraska, which the NPRM

proposed. Moreover, Sunrise provided an Engineering Statement by Clarence M. Beverage of Communications Technologies, Inc. ("Engineering Statement"), which concluded (at 3) (emphasis added) that "a global solution is available whereby all petitioners can achieve their desired upgrades or new allocations". That Engineering Statement is incorporated by reference in this pleading.

2. Focusing specifically on the two counterproposals, Sunrise believes that the Mahn Partnership's proposed allotment of Channel 248A at Alta, Iowa and of Channel 284A at Sac City (instead of Channel 248A, which was proposed in the NPRM) is acceptable in engineering terms and because the present Sac City allotment is vacant. See Engineering Statement (at 2 and Tables IV and V). Similarly, it is Sunrise's view that the Ames counterproposal to substitute Channel 286C3 for Channel 296A at Ames, Iowa, allot Channel 296C3 at Lake City, Iowa, substitute Channel 288A for Channel 269A at Perry, Iowa, and substitute Channel 256A for Channel 296A at Denison, Iowa is also acceptable in engineering terms. See Engineering Statement (at 2 and Tables III, VI, VII, and VIII).

3. Hence, Sunrise continues to recommend, and fully supports, the following "global solution," derived from the NPRM and the comments and counterproposals herein, which

permits grant of all of the new channel allotments and channel upgrades which the parties to this proceeding have proposed:¹

SUNRISE'S GLOBAL SOLUTION

City	Present	Proposed
Blair, Nebraska	292A	247C3, 268C3
Perry, Iowa	269A	288A
Sac City, Iowa	286A	284A
Storm Lake, Iowa	268C1	269C1
Alta, Iowa	-	248A
Denison, Iowa	296A	256A (or 256C3) ²
Ames, Iowa	296A	286C3
Lake City, Iowa	-	296C3

4. The only discordant note which has been raised, to date, concerning the two counterproposals comes from Northwest Iowa Broadcasting Corporation ("Northwest"), licensee of Station KAYL-FM, Storm Lake, Iowa, which filed Reply Comments on September 30, 1992. There, Northwest opposed the Mahn Partnership's proposal to substitute either Channel 265A or 284A for Channel 248A at Sac City (Channel 286A is presently allotted, but Channel 248A was proposed in the NPRM).

5. Although Sunrise has no technical objection to the allotment of Channel 248A at Sac City, Sunrise supported the allotment of Channel 284A in its own Reply Comments, and

¹ This solution is fully consistent with the Commission's "two substitution only" allotment policy, which is counted on a per-petition basis, not a per-proceeding basis. See FM Table of Allotments (Boalsburg, et al., Pa.), 6 FCC Rcd 4296, 4299 ¶14 and n.11 (MMB 1991).

² See Engineering Statement (at 2 and Table VIII-B).

continues to support it, as part of its "global solution" to this proceeding, which maximizes the number of new allotments and upgrades. In contrast, Northwest's objections to Channel 284A or 265A at Sac City appear to be no more than hypertech-nical attacks motivated by the fact that "Mahn wishes to activate a third station in Buena Vista County in which KAYL-FM is located" (Northwest Reply Comments at 5) (emphasis added).

6. Sunrise urges that Northwest's professed concerns about "highly restricted channels" (id.) and its implication that "[no] usable site is available" (id. at 3) are speculative and otherwise insufficient as a matter of law and engineering³ to overcome the Commission's policy favoring maximization of the fruits of FM rulemaking proceedings. See Archilla-Marcocci Spanish Radio Co., 101 FCC 2d 522 (Rev. Bd. 1985), rev. denied, FCC 86-271 (Comm'n May 30, 1986) (§307(b) of the Communications Act is better served by granting proposals to serve three communities instead of one).

7. In short, for strictly competitive reasons, Northwest may prefer that no channel be allotted at Alta, Iowa. But, if allotted, the Mahn Partnership has undertaken to apply for a new FM station there, and such a station would provide a first local service. Surely, the paramount public interest

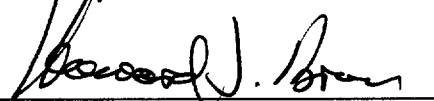
³ Although Northwest's engineering statement alludes to certain constraints inherent in allotment of Channel 284A at Sac City, such as limited site area and closeness of full 70 dbu contour coverage of the community, it does not conclude that the allotment is contrary to any of the Commission's rules.

is better served by activating a new Alta allotment than by fretting over a change in the existing but vacant Sac City allotment, which has remained fallow for almost two years and has never had a licensed station.⁴ Therefore, Sunrise urges that Northwest's objections to RM-8095 should be denied.

WHEREFORE, in view of the foregoing, Sunrise respectfully requests that the Commission should amend the FM Table of Allotments and modify the licenses of the affected stations as described in Paragraph 3, supra.

Respectfully submitted,

SUNRISE BROADCASTING OF
NEBRASKA, INC.

By 
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Its Attorneys

Dated: October 16, 1992

⁴ On March 29, 1991, the Commission released a Public Notice declaring that the construction permit held by Sac Radio General Partnership ("SRGP") for an unbuilt new FM station at Sac City (permit file no. BPH-860313MU) was forfeited and the call sign KSRG(FM) was deleted. Channel 286A was allotted to Sac City in MM Docket No. 84-231, and SRGP sought an authorization during the resulting February-March 1986 filing window. The frequency has been vacant since March 1991.

CERTIFICATE OF SERVICE

I, Katherine D. Wright, a secretary in the law offices of Rosenman & Colin, do hereby certify that on this 16th day of October, 1992, I have caused to be mailed, or hand delivered, a copy of the foregoing "**COUNTERPROPOSAL REPLY COMMENTS OF SUNRISE BROADCASTING OF NEBRASKA, INC.**" to the following:

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